

Title	Proof of Service Forms (approve forms POS-020, POS-030, POS-040)
Summary	Three new optional Judicial Council forms for proof of service would be approved for general use for most types of papers that need to be legally served in civil actions or proceedings.
Source	Civil and Small Claims Advisory Committee
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Discussion	<p>The Code of Civil Procedure requires that various legal documents be served on the parties and sometimes others in a lawsuit. Before considering motions and other papers, courts need to determine whether the documents have been properly served; hence, proofs of service must be filed.</p> <p>Presently, parties for the most part prepare their own proofs of service. Also, parties may use the proofs provided with some official forms. And some courts have developed local forms for proof of service. But, until now, no official proofs of service forms for general use in civil cases have been approved by the Judicial Council.</p> <p>Three new general-purpose service forms for proof of service would fill this gap.¹ They include forms POS-020 and POS-030, forms in the standard Judicial Council forms format for proof of service by the most common means, i.e., by personal delivery and by mail, and form POS-040, a multi-purpose form for use in most situations.</p> <p>1. <i>Proof of Personal Service</i> (form POS-020) This is a form for proof of service by personal service. This form is similar to family law form FL-330.</p> <p>2. <i>Proof of Service by Mail</i> (form POS-030) This is a simple proof for service by mail only. This form is similar to form FL-335, a form approved for proof of service of documents by mail in family law cases.</p> <p>3. <i>Proof of Service</i> (form POS-040) This is a general, multi-service form. It may be used in most</p>

¹ These forms are not to be used for service of a summons and complaint. A separate form (POS-010) for that purpose was revised by the Judicial Council and became effective January 1, 2004.

situations. By checking the appropriate boxes, a person serving documents may indicate whether service was made by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, (5) facsimile, or (6) e-mail/electronic transmission.

The third form is very flexible and versatile. It provides a method for providing service by several other means besides mail or personal delivery, such as by fax or messenger service. However, this form is not for all purposes nor is it designed for everyone. First, like the other forms described in this invitation to comment, it may not be used for service of a summons and complaint.² Second, form POS-040, may be too long and complicated to use in situations where simpler one-page forms, such as the *Proof of Personal Service* (form POS-020) and *Proof of Service by Mail* (form POS-030), are sufficient.

The instructions on the use of the forms are included on the reverse side of each form. These instructions are not intended to be part of the official forms, and do not need to be copied, served, or filed. Copies of the three new proof of service forms are attached.

Comments are specifically invited on the question whether the Judicial Council should approve all three forms for use or only form POS-040.

Attachments

² For service of a summons and complaint, a party in an ordinary civil action must use form POS-010 and a party in a family law proceeding must use form FL-115.

1. I am at least 18 years old and **not a party to this action**.
2. Person served (*name*):
3. I served copies of the following documents (*specify*):

a. Date: _____ b. Time: _____
c. Address: _____

a. ☐ not a registered California process server.

b. ☐ a registered California process server.

c. ☐ an employee or independent contractor of a registered California process server.

d. ☐ exempt from registration under Bus. & Prof. Code section 22350(b).

7. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

8. ☐ I am a California sheriff or marshal and certify that the foregoing is true and correct.

(TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

▶ _____
(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

INFORMATION SHEET FOR PROOF OF PERSONAL SERVICE

(This information sheet is not a part of the Proof of Service form and does not need to be copied, served, or filed.)

Use these instructions to complete the *Proof of Personal Service* (form POS-020).

A person at least 18 years of age or older must serve the documents. There are two main ways to serve documents: (1) personal delivery and (2) by mail. Use the *Proof of Service by Mail* (form POS-030) if the documents are served by mail.

NOTE: This form should **not** be used for proof of service of Summons and Complaint. For that purpose, use *Proof of Service of Summons* (form POS-010) or, in family law proceedings, *Proof of Service of Summons* (form FL-115).

The person who serves the documents must complete a proof of service form for the documents being served.

You cannot serve documents if you are a party to the action.

INSTRUCTIONS FOR THE PERSON WHO SERVES THE DOCUMENTS (TYPE OR PRINT IN BLACK INK)

You must complete a proof of service for each person on whom you served documents. For example, if you served two separate defendants, you must complete two proofs of service, one for each defendant.

Complete the top section of the proof of service forms as follows:

First box, left side: In this box print the name, address, and phone number of the person for whom you are serving the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. Use the same address for the court that is on the documents you are serving.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names listed on the documents you are serving.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. This number is also stated on the documents you are serving.

Complete all applicable items on the form:

1. You are stating that you are over the age of 18 and that you are neither a party to this action nor a protected person listed in any of the orders.
2. Print the name of the party to whom you handed the documents.
3. List the name of each document that you delivered to the party.
4.
 - a. Write in the date that you delivered the documents to the party.
 - b. Write in the time of day that you delivered the documents to the party.
 - c. Print the address where you delivered the documents.
5. Check the box that applies to you. If you are a private person serving the documents for a party, check box "a."
6. Print your name, address, and telephone number. If applicable, include the county in which you are registered as a process server and your registration number.
7. You must check this box if you are not a California sheriff or marshal. You are stating under penalty of perjury that the information you have provided is true and correct.
8. Do not check this box unless you are a California sheriff or marshal.

At the bottom, fill in the date, print your name, and sign the form. By signing the form, you are stating under penalty of perjury that the information that you have provided is true and correct.

1. I am at least 18 years of age, **not a party to this action**, and I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
3. I served a copy of the following documents (*specify*):

a. ☐ **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.

b. ☐ **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

a. Name of person served:	a. Name of person served:
b. Address:	b. Address:
c. Date mailed:	c. Date mailed:
d. Place of mailing (<i>city and state</i>):	d. Place of mailing (<i>city and state</i>):

Date:

(SIGNATURE OF PERSON COMPLETING THIS FORM)

INFORMATION SHEET FOR PROOF OF SERVICE BY MAIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

Use these instructions to complete the *Proof of Service by Mail* (form POS-030).

A person at least 18 years of age or older must serve the documents. There are two main ways to serve documents: (1) personal delivery and (2) by mail. Use the *Proof of Personal Service* (form POS-020) if the documents are personally served.

NOTE: This form should **not** be used for *Proof of Service of Summons and Complaint*. For that purpose, use *Proof of Service of Summons* (form POS-010) or, in family law proceedings, *Proof of Service of Summons* (form FL-115).

The person who serves the documents must complete a proof of service form for the documents being served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVES THE DOCUMENTS (TYPE OR PRINT IN BLACK INK)

Complete the top section of the proof of service forms as follows:

First box, left side: In this box print the name, address, and phone number of the person for whom you are serving the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. Use the same address for the court that is on the documents you are serving.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names listed on the documents you are serving.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. This number is also stated on the documents you are serving.

Complete items 1–4 as follows:

1. You are stating that you are at least 18 years old and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. List the name of each document that you mailed.
 - a. Check this box if you put the documents in the regular U.S. mail.
 - b. Check this box if you put the documents in the mail at your place of employment.
4. Provide the following information about each person served.
 - a. Print the name you put on the envelope containing the documents.
 - b. Print the address you put on the envelope containing the documents.
 - c. Write in the date that you put the envelope containing the documents in the mail.
 - d. Write in the city and state you were in when you mailed the envelope containing the documents.

If you served two persons, use the additional a–d for the second person. If you served more than two persons, check the box and add an attachment listing each person and providing all the information in a–d about each. You may use *Attachment to Judicial Council form* (form MC-025.)

At the bottom, fill in the date, print your name, and sign the form. By signing the form, you are stating under penalty of perjury that all the information you have provided is true and correct.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <hr style="width: 100%;"/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <div style="font-size: 24pt; font-weight: bold;">DRAFT 2</div> <div style="font-size: 24pt; font-weight: bold;">04/02/04</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER: <hr/> JUDGE: DEPT.:
CASE NAME:	
<div style="text-align: center; font-weight: bold;">PROOF OF SERVICE</div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> By Personal Service <input type="checkbox"/> By Mail <input type="checkbox"/> By Overnight Delivery <input type="checkbox"/> By Messenger Service <input type="checkbox"/> By Facsimile <input type="checkbox"/> By E-Mail/Electronic Transmission </div> <div style="width: 50%;"> </div> </div>	

(This Proof of Service is not to be used to show service of a summons and complaint.)

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. My address is (specify one):

a. ☐ Business:

b. ☐ Residence:

3. I served copies of ☐ the documents listed in Attachment 3 ☐ the following documents (specify the exact title of each document served):

4. I served the documents listed in item 3 ☐ on the persons at the addresses stated in Attachment 4 ☐ on the following persons at the addresses listed:

a. ☐ (1) Name of person served:
 (2) Address of person served:

 b. ☐ (1) Name of person served:
 (2) Address of person served:

5. The documents listed in item 3 were served by the following means (specify):

a. ☐ **By personal service.** I personally delivered the documents on the date shown in item 6 to the persons at the addresses listed in item 4.
 (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.

CASE NAME	CASE NUMBER:
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5. b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and *(specify one):*
- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or
- (2) ☐ placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at *(city and state):*
- c. ☐ **By overnight delivery.** I enclosed the documents on the date shown in item 6 in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ **By messenger service.** I served the documents on the date shown below by placing them in an envelope or package addressed to the person on the addresses listed in item 4 and providing them to a professional messenger service for service. *(A declaration by the messenger must accompany this proof of service or be contained in the Declaration of Messenger below.)*
- e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents on the date shown in item 6 to the fax numbers of the persons listed in item 4. No error was reported by the fax machine that I used. A copy of the fax transmission record of the transmission, which I printed out, is attached.
- f. ☐ **By e-mail or electronic transmission.** Based on an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent on the date shown in item 6 to the e-mail addresses of the persons listed in item 4. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.
6. I served the documents by the means described in item 5 on *(date):*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

(If item 5d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

- ☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 4. I delivered the documents on the date shown below to the persons at the addresses listed in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.

At the time of service, I was at least 18 years of age. I am not a party to the above referenced legal proceeding.

I served the envelope or package, as stated above, on *(date):*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(NAME)



(DECLARANT)

INFORMATION SHEET FOR PROOF OF SERVICE

DRAFT 2
04/02/04

(This information sheet is not part of the official proof of service form and does not need to be copied, served, or filed.)

USE OF THIS FORM

This form is designed to be used to show proof of service of documents by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, (5) facsimile, or (6) e-mail/electronic transmission.

Certain documents must be personally served. For example, an order to show cause and temporary restraining order generally must be served by personal delivery. You must determine whether a document must be personally delivered or can be served by mail or other methods.

Note: This proof of service form must not be used to show proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010) or, in family law proceedings, use *Proof of Service of Summons* (form FL-115).

GENERAL INSTRUCTIONS

A person must be 18 years of age or older to serve the documents. The person who served the documents must complete the Proof of Service. **A party to the action cannot serve the documents.**

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person for whom you are serving the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. Use the same address for the court that is on the documents you are serving.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names listed on the documents you are serving.

Fourth box, left side: Check which type of service was used.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. This number is also stated on the documents you are serving.

Third box, right side: State the judge and department assigned to the case, if known.

Complete items 1–4.

1. You are stating that you are over the age of 18 and that you are not a party to this action.
2. Print your home or business address.
3. List the exact title of the document or documents that you served.
4. List the names and addresses of the persons served.

Types of Service

In item 5, check the box before the subpart that describes the manner in which you served the documents, and provide any additional information that is requested.

Note: The law may require that documents be served in a particular manner (such as by personal delivery) for certain purposes. Service by fax transmission or e-mail generally requires the prior agreement of the parties.

Date of Service

Complete item 6 stating the date on which the documents were served.

Signature

You must sign and date the proof of service form. By signing the form, you are stating under penalty of perjury that the information that you have provided is true and correct.

(Additional Judicial Council forms for proof of service are available for other types of service and for service of particular documents. Check with the court clerk or legal publishers for copies of these other proofs of service.)